


99273

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

SUBJECT: Filing Notice of Federal Superfund
Lien under CERCLA Section 107
against Boarhead Farms Site, Bucks
County, Pennsylvania

DATE: 3-26-93

FROM: Brian M. Nishitani 
Senior Assistant Regional Counsel

TO: Marcia E. Mulkey
Regional Counsel

I request that you sign in front of a notary, two originals of the attached Notice of Federal Superfund Lien against the Boarhead Farms Site property located on Lonely Cottage Road in Upper Black Eddy, Bridgeton Township, Bucks County, Pennsylvania.

Boarhead Corporation, with Manfred DeRewal, Sr. as president, purchased the Site in 1969. During the 1970's, there were three documented spills of hazardous substances at the Site: 3,000 gallons of ferrous chloride in 1973; 4,000 gallons of ammonia in 1976; and 2,700 gallons of sulfuric acid in 1976. There were also documented reports that hazardous substances were improperly stored at the Site in barrels, drums, bags, and tank cars.

In 1989, the Site was placed on the National Priorities List with a Hazard Ranking System score of 39.9, with an observed release to the ground water being a primary factor in the score. In 1991, as part of the Remedial Investigation, EPA conducted a geophysical survey using electromagnetic ground conductivity and magnetic methods at the cleared areas at the Site. As a result of this survey, EPA identified 28 anomalous areas (areas in which metallic objects are potentially buried). These areas generally coincide with areas of alleged burial of drums containing hazardous substances which were identified by a confidential FBI informant and alleged drum burial areas identified by five separate individuals interviewed by an EPA investigator.

On May 29, 1992, EPA issued an Administrative Order for Access to the Site for purposes of conducting the RI/FS and the Removal Action. On June 29, 1992, the Removal Action began and confirmed that buried hazardous materials exist beneath the Site; that leakage has occurred into the soil and groundwater, and that these buried hazardous materials pose a fire and explosion threat. To date, EPA has confirmed that buried drums exist in 21 areas on-site. Several hundred drums of waste material have been prepared for disposal, and there is roughly 1500 cubic yards of contaminated soil.

AR000071

Section 107(1)(2) of CERCLA provides that the lien arises at the later of: (1) the time costs are first incurred by the United States or (2) the time written notice of potential liability is provided. Costs were first incurred with respect to the Site on July 14, 1987. EPA issued a Notice Letter to Boarhead Corporation on May 18, 1989.

A Notice of Federal Superfund Lien was recorded on September 11, 1992 with the Prothonotary Office in Bucks County Court House, and with the United States District Court for the Eastern District of Pennsylvania on September 14, 1992, due to exigent circumstances; a September 15, 1992 tax sale on one of the two parcels of real property owned by Boarhead Corporation and comprising the Site.

The Notice of Federal Superfund Lien was withdrawn on November 9, 1992 because the tax sale did not result in a transfer of the burdened property, and the lien was attached on the second parcel, which property was not subject to the tax sale. In addition, the lien was withdrawn to provide Boarhead Corporation with notice of EPA's intention to refile a Notice of Federal Superfund Lien on the same property, after providing Boarhead Corporation with a twenty day period within which to contest the proposed filing pursuant to Region III's CERCLA Lien Procedures adopted on August 5, 1992.

Boarhead Corporation failed to respond to EPA's notice of intention to withdraw and refile notice of lien letter sent on October 30, 1992 (accepted on November 6, 1992 by Kym DeRewal) within the twenty day period. On December 3, 1992, follow up letters were sent to Boarhead Corporation (accepted on December 10, 1992 by Kym DeRewal and on December 7, 1992 by a correctional custodian of Manfred DeRewal) providing Boarhead Corporation with three additional calendar days from receipt of the letter to submit a response to the October 30, 1992 notice letter (twenty day period expired on November 27, 1992). To date, Boarhead Corporation has not responded to any of EPA's letters.

Therefore, we need to file the lien to protect EPA's ability to recover its costs, and to assure full notice of the existence of this lien to any persons involved or affected by any subsequent tax or judicial sales (on December 10, 1992, the County Court held a judicial sale and no one purchased the property). It should be noted that we believe that no unusual or extraordinary legal issues are posed by the facts associated with this Responsible Party or the filing of this federal lien.

AR000072